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Trip Report

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Remedial Response Section II

On January 25, 26 and again on January 31 and February 1, 1984, I travelled to MPCA offices to attend negotiations with Reilly Tar and Chemical Company. A list of attendees is attached.

The negotiations are a result of 3 months of open discussion between Reilly Tar representatives, EPA (Bitter), and MPCA representatives. During these three months, discussions were limited to technical solutions that were comprehensive. At the conclusion of these discussions (December, 1983) the MPCA with input from EPA produced a Remedial Action Plan (RAP) for Reilly Tar to implement. (A copy attached). This RAP represents the comprehensive solution to solving the contamination problems in each of the Aquifers at the Reilly Tar site. At the conclusion of the technical discussions ending in December, Reilly Tar agreed to much, but not all of the RAP, to be implemented at the site. Thus, by January 25, 1984 the MPCA handed Reilly the final draft copy of the RAP and a copy of the Consent Decree (also attached).

Jay Heffern, MPCA Deputy Director led negotiations on behalf of the regulatory agencies and discussed settlement with Reilly Tar. Most of the 25th meeting was posturing by all parties. On the 26th, however, Reilly countered the RAP proposal with a Reilly proposal that was so short of previously agreed solutions that the regulatory agencies dismissed themselves and requested that Reilly contact us if they were going to seriously negotiate. Their counter proposal was deliberately miniscule in order to force the City of St. Louis Park to participate in the negotiations and to accept some liability. The City is being sued by Reilly, since the City accepted the land from Reilly under a "Hold Harmless" agreement back in 1972.

I stayed the morning of the 27th to meet with Marc Milt, USGS, who is an expert witness on the case. Marc and I chartered future enforcement work ; should negotiations fail.

Reilly agreed to meet again on the 31st of January. On that day Reilly proposed their "final" solution and amount of money to solve the problems at the site. The strategy for settlement expounded by Heffern was analogous to a three-legged stool, whereby, Reilly would have to provide equal amounts of support for each leg and thus finance a complete solution. The three legs are: (1) technical implementation of the RAP (2) payment for future operation and maintenance costs and (3) payment of past costs accrued by the State and Federal governments. Number 1 was most seriously addressed by Reilly. No. 2 was thought by Reilly to be a State and City responsibility. Number 3 was scarcely acknowledged by Reilly as their responsibility. A copy of Reilly's proposal is attached. A translation of their proposal to be put on an equivalent scale as the MPCA/EPA RAP, is currently underway by Bitter and Hansel.

Briefly, Reilly is proposing 1 million dollars to pay back previous costs. CERCLA costs alone are \$900,000 and Federal litigation costs are estimated at \$800,000. State previous costs are estimated between 3-5 million dollars. Thus, Reilly falls substantially short on payment of previous costs. They maintain that the City/State are responsible for long term (100 year) O/M of all treatment and monitoring systems. They are gradually creeping up to the capital cost expectations of the RAP but are still short. I will provide the dollar differential between Reilly's proposal and the RAP by February 15, 1984.

Conclusion:

Reilly has provided a three-legged approach that requires concessions by the City of St. Louis Park and the MPCA, for past costs and future O/M. If the State makes substantial concessions on past costs, I expect Reilly will also raise their financial participation in implementing the RAP. The City of St. Louis Park will have to commit to a long-term O/M for drinking water and gradient control. If these three concessions are made it will be worth another round of negotiations with Reilly. To date, EPA has made no concessions and is maintaining that payback of \$900,000 CERCLA costs (Cooperative Agreements) and about \$800,000 of litigation costs is necessary by Reilly.

cc: Leininger, SRC

PBitter:rmb:2/16/84:RRSII

Attendees for Reilly Tar Negotiations January 25, 26, 1984

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| Robert Pollack | - | Reilly Tar Consul |
| Carl Leshner | - | Reilly Tar Manager |
| John Craun | - | ERT Consultant to Reilly |
| David Hird | - | DOJ Attorney |
| Robert Leininger | - | EPA V Attorney |
| Deborah Woltje | - | EPA Hq. Attorney |
| Sharon Foote | - | OWPE Hq. |
| Paul Bitter | - | EPA OSC |
| Jay Heffern | - | MPCA Deputy Director |
| Michael Hansel | - | MPCA Chief Superfund Section |
| Steven Riner | - | MPCA Reilly Tar OSC |
| Steven Shackman | - | MPCA - AG Attorney |
| James Brimeyer | - | City Manager, St. Louis Park |
| Dick Koppy | - | City Engineer, St. Louis Park |

Attendees for negotiations held January 31, February 1, 1984 - Same as above minus David Hird, DOJ Attorney